

REMARKS/ARGUMENTS

Currently in the case, after amendment, claims 1 - 4, 7, 8, 11, 13, 14, 20, 21, 30, 31, 32 and 45 are pending and rejected.

This Amendment responds to the aforementioned Office Action, wherein the claims as originally presented were rejected under Title 35 of United States Code, §§112, 102 & 103. The Examiner's remarks have been carefully considered and, in view of the cited art, the claims which have amended to more particularly point out the distinctly claimed what Applicants regard as the subject matter of this present invention, it is sincerely believed that the claims which remain in the instant case patentably distinguish over all the prior art references. It is respectfully requested that this Application be re-examined in view of the following remarks, that the rejections be withdrawn, and that allowable subject matter be identified.

The points raised by the Examiner in the written office action will be responded to in the order they were discussed by the Examiner in the Office Action.

On page 2, claim 31, and the specification was objected to as failing to provide proper antecedent basis. In the specification on page 9, it is stated "an open cell foam or other porus material". However, porus was misspelled and was changed

by amendment to "porous". The same is true for a paragraph on page 38, line 4. The details of how an open cell foam can have a porous volume and perhaps a surface which is not porous is explained on page 9. Therefore, the specification is believed to have been corrected both by grammatical amendment and by a showing for the source of the description of the states which foam can assume.

Section 102 Rejections

The examiner rejected claims 1 - 4, 7, 11, 20, 21, 30, 31, under 35 U.S.C. §102 as anticipated by 6,062,688 to Vinas entitled DETACHABLE EYEGLASS FOAM SHIELD. Vinas shows a double annular member having a series of holes 62 and which is used with eye wear having a series of small pins which interfit with the holes 62. The stated effect is to have a **disposable** shield which permits moisture trans movement.

However, the only advantage of the system of Vinas is that it enables **a complete specialized eyewear and liner** system which promotes disposability of the inner liner. Claim 1 of applicant requires a member which is utilized with conventional eyewear. **This is not the case for Vinas as he has an integral system.** The pegs 28 can harm the user if the eyewear is worn without the disposable liner. A frontal bump on the eyewear will drive the pegs 28 into the facial skin of the user.

Claim 1 requires an eyewear member for use by a person wearing conventional eyewear, and the claim has been further amended to require that the member fit with conventional eyewear, rather than the specialized portion of the eyewear system, such as seen with Vinas.

Claim 2 provides limitations on the configuration of the eyewear member and claim 3 requires connection by a bridge. Claim 4 requires that the bridge include structure separating said eyeglass sections. Claim 7 requires at least one projection to extend around the bridge. Claim 8 requires the projection to be an angled projection. Claim 11 requires a sealing strip attached to the body with claim 12 further requiring it be tapered, while claim 13 enables the strip to be removable from the body (rather than an integrate disposable as seen in Vinas). Claim 14 requires the body to have a lens in the enlarged opening.

Claim 20 requires removable deployment that requires no modification of the conventional eyewear and which enables easy removal of the resilient sealing member from said conventional eyewear. Strictly speaking the Vinas structure has been specially modified with the placement of posts, and in fact is not conventional eyewear. Claim 21 requires a sealing structure attached at least partially around conventional eyewear.

Claim 30 contains further limitations on the sealing

structure. Claim 32 requires the foam piece to have at least one surface which is impermeable.

Claim 45 requires attachment at least partially around the eyewear.

In conclusion, Vinas does not enable user removability on a conventional eyewear set such that the member can be removed to put the conventional eyewear in a configuration for conventional use, and Vinas has no structure which reaches at least partially around the conventional eyewear. Thus the points made by the Examiner are believed to have been overcome. These restrictions enable a form of use heretofore unseen in the eyewear field. It is for these main reasons, and the reasons listed above that the claims remaining in this case are in condition for allowance.

Next, the Examiner rejected the same claims 1 - 4, 7, 11, 20, 21, 30, 31, under 35, and in addition claim 8, over U.S. Patent No. 6,641,263 to Olney entitled "SUNGLASSES WITH REMOVABLE SEALING MEMBER" with respect to 35 U.S.C. §102.

Olney discloses a system which is not utilizable with conventional eyewear and he emphasizes this both in (I) his **three specialized** connection structures, and in his (II) matched ventilation system. Olney teaches an insert having (1) a pair of specialized side tabs 49 which insert into specialized (non conventional) eyewear having specialized slots 23' for accepting

end tabs 49; (2) a pair of specialized upper front pins 47 which fit into specialized mating pin holes in the rear of the frame 10; and (3) a pair of extremely specialized curved projections 48 which are pushed into specialized **receiving recesses** (column 4, line 24). The ventilation system of Olney requires structure 46 on his insert to work in conjunction with structures 20 and 21 on the frame.

As a result of these extremely fine and specific limitations, *it is clear that the frame system of Olney is not conventional eyewear*. The inner member of Olney cannot be used with conventional eyewear. Why? The posts 47 would cause sliding around of the inner member in an unstable relationship with the frame 10; AND the specialized curved projections 48 have to match just right or else they would cause further instability, AND unless conventional eyewear were fitted with a deep slot at the very delicate hinge (which has other structural demands), the Olney device would not fit at all. Thus Olney teaches a device which is **incompatible** with conventional eyewear and thus **teaches against** use with conventional eyewear.

The above emphasizes a traversal to Examiner's statement on page 5 of the action that Olney's eyewear is "conventional". Olney's eyewear has so many specialized structures that it cannot be said to be conventional. The conventional eyewear limitation of Applicant relates to eyewear which contains no special

structures to accommodate Applicant's eyewear member.

§103 Rejections

The Examiner rejected claim 13 as unpatentable with respect to §103 over Olney. Claim 13 claims the user removability and selection of different size sealing strips to facilitate a users desires which may range to fit, performance, etc. That the structure of Olney can have various molecular elements is not objected to, but the claim of removability and inter placement of the sealing strips is not something which Olney has even considered this in his specification. At column 3, bottom and column 4 it is clear that Olney considers only removal of the whole structure, the "entire sealing member". He does not teach nor suggest the possibility of user removal of the sealing strip. Therefore, claim 13 is believed to be in condition for allowance.

Claim 14 is rejected as unpatentable over Vinas in view of Vosper. Claim 14 requires the large opening to contain a lens. U.S. Patent No 4,338,004 to Vosper illustrates a set of normal glasses having front lenses (not numbered) and also having the same structural frame which supports the front lens to support colored inserts to be snapped into the frame. In essence, the same frame is made to support a lens and colored transparency material.

Combining the aforementioned invention of Vinas as having a

specialized plate and foam with Vosper, will yield not lens supported by an additional addable structure at all. The step of adding a lens to the specialized snap in structure of Vinas is not taught by Vinas nor is it taught by Vosper. Even Vosper does not teach adding more than colored inserts, and he teaches adding them to the main frame. Only the teaching of applicant is sufficient within the meaning of §103 to teach or suggest the use of additional lens material in a separate, removable structure as claimed. Therefore, claim 14 is also believed to be in condition for allowance.

Next, claims 31-32 were rejected as unpatentable over Vinas. Claims 31 and 32 relate to foam structure and one impermeable surface, respectively. Vinas does indicate an open cell foam, but claim 31 is to be taken in combination with the limitations of earlier claims which have limitations that Vinas lacks. Further, nothing in Vinas indicates that a surface could or should be made impermeable for superior sealing. As such, Vinas has no indication whatsoever to make this surface impermeable. Vinas is not a much older reference. The types of foam sealing to make impermeability have been known at the time of the Vinas reference, but not for eyewear. The inventor of Vinas did not contemplate it and did not have the inventiveness necessary to suggest it. Therefore, claims 31 & 32 are believed to be allowable.

General

In view of the amendments to the claims indicated as being present within the case by the Examiner, Applicant is willing to accept the individual claims election as having been made without traverse and hereby acknowledges same.

Attorney for applicant notes the contact information (and hopes that it is still valid given the recent office moves).

The rejections under §§112, 102, & 103 having been explained, met and overcome, claims 1 - 4, 7, 8, 11, 13, 14, 20, 21, 30, 31, 32 and 45 are currently in condition for allowance, and an indication of such is respectfully solicited.

The Examiner is invited to telephone Applicant's Attorney at the number below between the hours of 1:00 p.m. and 6:00 p.m. Eastern Standard Time, if such will advance this case.

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